

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DANIEL H. LUEDERS, Plaintiff, vs. AARON ARP, ARMY NATIONAL GUARD, and THE UNITED STATES OF AMERICA, Defendants, ROSENS, INC., Plaintiff/Subrogee.	Case No. 8:17-cv-373 COMPLAINT JURY TRIAL DEMANDED
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Plaintiff Daniel H. Lueders, for his cause of action against the Defendants, states:

JURISDICTION

1. Plaintiff Daniel H. Lueders ("Mr. Lueders") is a citizen and resident of the State of Nebraska, Platte County, Columbus.
2. Defendant Aaron Arp is, upon information and belief, is an active-duty member of the Army National Guard and the United States of America and acted in the line of duty at all times relevant to this action.
3. Defendant Army National Guard is a federal military reserve force of the United States of America.
4. Defendants Army National Guard and the United States of America are sued under the Federal Tort Claims Act.
5. Plaintiff/Subrogee Rosens, Inc. is a Minnesota corporation conducting business in Nebraska and was at all times relevant to this action, Mr. Lueders' employer

and through its workers' compensation insurer, Esis, Inc. has paid workers' compensation benefits to Mr. Lueders pursuant to Nebraska law; and is made a party to this action for purposes of Neb. Rev. Stat. § 48-118 only.

6. The various negligent acts set forth in this Complaint occurred in the State of Nebraska, Platte County.

7. Jurisdiction lies in this Court pursuant to 28 U.S.C. §§ 1346(b) and 28 U.S.C. §§ 2671-80. Mr. Lueders timely submitted an administrative claim to the Army National Guard. The National Guard has not responded to the claim and 6 months have passed.

COUNT I

(Negligence AARON ARP)

8. On July 15, 2012, Mr. Lueders was driving his 2011 Chevrolet Silverado truck eastbound on 23rd Street in Columbus, Platte County, Nebraska. Mr. Lueders was pulling a trailer with his truck.

9. At the same time and place, Arp was driving a 2007 Freightliner semi-truck in the course and scope of his employment duties with the Army National Guard and was driving eastbound on 23rd Street directly behind Mr. Lueders' vehicle.

10. Arp failed to slow his vehicle and drove his tractor-trailer into the rear end of Mr. Lueders' trailer and truck.

11. The crash was a direct and proximate result of Arp's negligence, in each of the following particulars:

- a. In failing to keep and maintain his tractor-trailer under control;

- b. In failing to reduce the speed of his tractor-trailer when approaching an intersection of public highways, and
- c. In driving his truck at a speed greater than would permit him to bring it to a stop within the assured clear distance ahead.

12. Arp's negligence caused the following physical and mental injuries to Plaintiff Daniel Lueders:

- a. Right shoulder injury requiring total shoulder replacement surgery, right shoulder revision surgery; and right shoulder reverse total shoulder arthroplasty surgery;
- b. Infection resulting from injuries sustained in the crash, requiring daily antibiotics for the duration of Mr. Lueders' life; and
- c. Post-traumatic Stress Disorder.

13. As a direct and proximate result of Arp's negligence, Mr. Lueders has incurred the following damages:

- a. Permanent physical injuries;
- b. Past medical expenses in an amount to be determined at trial, but not less than \$140,606.16 as of the filing of this Complaint;
- c. Future Medical expenses;
- d. Past Lost wages;
- e. Mileage expense;
- f. Future loss of earning power;
- g. Past and future physical pain and mental suffering; and
- h. Past and future humiliation and inconvenience.

DEFENDANTS ARMY NATIONAL GUARD AND
UNITED STATES OF AMERICA

14. Defendant Arp's negligent acts and omissions occurred while he was in the line of duty; therefore Defendants Army National Guard and the United States of America are responsible for Arp's actions pursuant to the doctrine of respondeat superior and 28 U.S.C. § 1346(b).

WHEREFORE, Plaintiff Daniel H. Lueders prays for judgment against the defendants as follows:

- a) For judgment against the Defendants on their causes of action, for general damages, special damages, interest and costs of this action as allowed by law; and
- b) Judgment against the Defendants for such other, further, and different relief as is just and equitable.

DEMAND FOR JURY TRIAL IN OMAHA

Plaintiff Daniel H. Lueders hereby requests a trial by jury of any and all causes of action alleged in the Complaint. Plaintiff requests trial in Omaha, Nebraska.

DANIEL H. LUEDERS,
Plaintiff

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